

ORIGINAL

DOCKET FILE COPY ORIGINAL

RECEIVED

APR 30 2001

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the Subscriber Carrier)
Selection Changes Provisions of the) CC Docket No. 94-129
Telecommunications Act of 1996)
)
Policies and Rules Concerning)
Unauthorized Changes of Consumers)
Long Distance Carriers)

**WORLDCOM COMMENTS ON AT&T'S PETITION FOR
RECONSIDERATION**

WorldCom, Inc. ("WorldCom") hereby submits these comments on AT&T Corp's
("AT&T") Petition for Reconsideration filed in the above-captioned docket.

INTRODUCTION

On August 15, 2000, the Commission released its *Third Report and Order* in the
above-captioned matter.¹ On April 2, 2001 AT&T filed a Petition for Reconsideration
on certain aspects of this order. AT&T requested that the Commission eliminate the
inconsistency between the verification elements for LOAs and third party verification
(TPV) calls; modify and clarify the expiration provisions for LOAs; and, require

¹ *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers, Third Report and Order and Second Order on Reconsideration, CC Docket No. 94-129, FCC 00-255 (rel. Aug. 15, 2000)(Third Report and Order), amended, Order, FCC 01-67 (rel. Feb. 22, 2001).*

No. of Copies rec'd 074
List A B C D E

executing carriers to lift freezes and process carrier change requests in the same three-way call.²

In adopting its rules, the Commission specifically stated that the content requirements for TPV and LOAs do not differ in substance.³ WorldCom disagrees with AT&T that the Commission's rules, on content of TPV, require that customers confirm the identity of the carrier that will be supplanted by the new preferred carriers, but agrees with AT&T that such a requirement would be disruptive and unnecessary.⁴ In order to eliminate any confusion on this matter, the Commission should clarify that the TPV content rules only require that customers confirm the identity of the new preferred carriers.

WorldCom agrees with AT&T that the Commission should modify and clarify its rule, limiting the validity of letters of agencies (LOAs) to 60-days, to specifically exclude LOAs executed by multi-line and/or multi-location business customers. Alternatively, the Commission should clarify that this is a default provision.

WorldCom additionally supports AT&T's request for reconsideration of the Commission's decision not to require executing carriers to lift freezes and process carrier change requests by the customer in the same three-way call.

² See AT&T Reconsideration Petition, CC Docket No. 94-129 (filed Apr. 2, 2001)(AT&T Petition).

³ *Third Report and Order*, para. 40.

⁴ See AT&T Petition, pp. 4 – 6.

I. CUSTOMERS ARE NOT, AND SHOULD NOT BE, REQUIRED TO NAME THEIR CURRENT PRESUBSCRIBED CARRIERS FOR TPV TO BE VALID.

When a customer changes his or her preference in carrier the customer typically authorizes the new preferred carrier to submit an order, switching the customer's presubscription to that carrier, to the local exchange carrier (LEC) on his or her behalf. The Commission's rules require this carrier to obtain verification of the customer's change in preference prior to submitting the order on the customer behalf, TPV being one form of verification.⁵

The Commission, in its *Third Report and Order*, adopted minimum content requirements for TPV. This included the requirement to elicit from the customer "the names of the carriers affected by the change."⁶ WorldCom disagrees with AT&T that this is an apparent reference to the identity of the carriers that will ultimately be supplanted after an order is submitted. Rather, this rule requires that customers confirm the identity of the new preferred/submitting carriers for each of the types of services involved.

The new preferred/submitting carriers are the "carriers affected" by the change in customer's preference because they are the ones being designated to act on the customer's behalf, in initiating the carrier change order to switch that customer's presubscription. They are the carriers that are required to obtain and maintain verification of the customer's change in preference. No other carriers will likely even be aware of the customer's change in preferred carrier until the new preferred carrier submits an order.

⁵ See 47 C.F.R. § 64.1120(a)(1)(ii).

⁶ *Third Report and Order*, para. 40; App. A. § 64.1120(c)(2)(iii).

The rule does not require the customers to confirm the identity of *any* or *all* carriers that *will be* affected once an order is submitted or processed.⁷

Moreover, the rules must be read in a manner consistent with the Order adopting them. The *Third Report and Order* clearly and unambiguously states, as AT&T noted, that “[t]hese content requirements do not differ in substance from our rules regarding LOAs.”⁸ The only name the verification rules specifically require to be inserted in a LOA is that of the submitting carrier.⁹ The LOA rules do not require customers to insert the names of their previously preferred carriers. Thus, the only way to interpret the rules, without conflicting with the language of the Order, is to interpret “carriers affected” to be referring only to the new preferred/submitting carriers.¹⁰ If the Commission intended to require that the names of the current presubscribed carriers be provided, it would not have stated that the content rules were substantively the same as those for LOAs. Rather, the Commission would have unambiguously stated, and justified, the difference in the content requirements for TPV.

WorldCom agrees with AT&T that a requirement that consumers provide the names of their current providers during the TPV process would serve no purpose and be disruptive to the process. Verification only surfaces if and when a dispute as to whether the switch initiated by an allegedly unauthorized carrier was authorized by the customer arises, and a complaint has been filed at the relevant governmental agency. Verification

⁷ Moreover, such a broad reading may infer that carriers that bill for the supplanted carrier or its underlying carrier, if it was a reseller, also must be named. Clearly this is not the Commission’s intent.

⁸ *Third Report and Order*, para. 40.

⁹ See 47 C.F.R. § 64.1130(e).

¹⁰ Since the carrier is both the new preferred carrier and the submitting carrier, the information obtained is *substantively* the same regardless of how the question is asked. LOAs serve as both authorization and verification, and therefore must specifically include authorization to act as the customer’s agent for purposes of making the switch. TPV, however, serves as verification of the customer’s intent to make the

must confirm that the customer intended to switch his or her presubscription to the carrier that submitted the order. The identity of the supplanted carrier is irrelevant. At the time verification is produced the customer would already have identified and been switched back to the carrier he or she claims as the authorized carrier. It is therefore unclear what purpose would be achieved from obtaining this information during TPV.

The purpose of TPV has never been to gather information regarding other carriers, nor should carriers be sending such information to the executing carrier. As AT&T explains, it may be impossible to send such information through the standard PIC change process.¹¹ But even if it were possible, it is not necessary to send the name of the carrier being replaced to the executing carrier in order for the executing carrier to process the order. Clearly this information can not serve as a form of verification by the executing carrier that the switch was authorized since the Commission's rules *specifically prohibit* executing carriers from verifying the changes in preferred carriers.¹²

The Commission has also previously found a customer's carrier choice to be customer proprietary network information (CPNI).¹³ A rule that unnecessarily requires consumers to reveal this information is inconsistent with the spirit of the Commission's CPNI rules. It also may be disruptive to the TPV process, because a number of customers may ask the third party verifier why this information is necessary. In addition,

switch and therefore could elicit the identity of new provider either as the new provider or the submitting carrier, since either would be sufficient to demonstrate the customer's intent.

¹¹ See AT&T Petition, p. 5.

¹² See 47 C.F.R. 64.1120(a)(2).

¹³ *In the Matter of Implementation of the Telecommunications Act of 1996, Telecommunications Carriers' Use of Customer Proprietary Network Information; Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, As Amended*, CC Docket Nos. 96-115 and 96-149, Second Report and Order and Further Notice of Proposed Rulemaking (rel. Feb. 26, 1998), *vacated*, *U.S. West, Inc. v. FCC*, 182 F.3d 1224 (10th Cir. 1999), *cert. denied* 120 S. Ct. 2215 (2000), Order on Reconsideration and Petitions for Forbearance, FCC 99-223, para. 147 (rel. Sept. 3, 1999)(*CPNI Orders*). Although the status of the *CPNI Orders* in light of the court's ruling is unclear, the Commission's intent on this point was clear, and was not a subject of the court's decision.

as AT&T explains, customers do not always know their current presubscribed carrier.¹⁴ A requirement that they confirm the identity of this carrier would effectively preclude many customers from switching carriers via a carrier change submission by their newly chosen carrier. This would conflict with the Commission policy in implementing verification rules, to “ . . . provide consumers with protection against slamming while still providing them with the ability to change carriers without unnecessary burdens.”¹⁵

Accordingly, WorldCom requests that the Commission clarify that its TPV content rules require that customers confirm the identity of their new preferred carriers, and not their previously preferred carriers.

II. THE 60-DAY LIMIT ON THE VALIDITY OF LOAs SHOULD NOT BE APPLIED TO LOAs EXECUTED BY BUSINESS CUSTOMERS.

In its *Third Report and Order* the Commission adopted a rule that limits the effectiveness of LOAs to 60-days.¹⁶ AT&T requests that the Commission modify this rule to specifically exempt LOAs executed by multi-line and/or multi-location customers. WorldCom agrees that application of this rule to LOAs executed by business customers is inappropriate and supports this aspect of AT&T’s petition. In the alternative, the Commission should clarify that the rule is a default provision, and a longer period can be specified or indicated by the customer.

The Commission’s rationale for the 60-day limitation on LOAs was to avoid consumer confusion resulting from consumers forgetting that they authorized the switch due to the lag in time. It was also to ensure that the customers’ expectations, that their

¹⁴ See AT&T Petition, pp. 5 – 6, n. 6.

¹⁵ Second Report and Order, CC Docket No. 94-129, para. 76 (rel. Dec. 23, 1998)(*Section 258 Order*).

expressed preference for a new carrier will be honored within a reasonable time, is fulfilled.¹⁷ Business customers, however, often enter into service agreements with carriers that contemplate the continual addition of new lines or locations for service. These customers, as AT&T explains, authorize their preferred carrier to presubscribe all or a substantial portion of the customer's existing and newly added lines to that carrier.¹⁸ It is unlikely that these customers will "forget" that they entered into such an arrangement, particularly since these arrangements often are the product of negotiations. Parties should be free, without Commission interference, to enter into arrangements that require a longer period of agency. As the Commission has previously recognized " . . . large telecommunications users that usually negotiate such long-term service arrangement possess sufficient leverage in the market to discourage nondominant carriers from choosing a course of conduct harmful to the users' interests."¹⁹

If the Commission dictates terms that conflict with those arrangements, it would defeat, rather than fulfill, the customer's expectations and would be extremely disruptive to their business. Consequently, a mandatory application of this rule to business customers would not only be unnecessarily paternalistic, it would be a disservice and added burden to these types of consumers.

¹⁶ *Third Report and Order*, para. 80; App. A. § 64.1130(j).

¹⁷ *Id.* para. 81. It is unclear, however, how the Commission justifies a need to specify a time for the carrier that is motivated to satisfy the customer in terms of timing, rather than the time for the executing carrier, which may be competitively motivated to delay, to process the order.

¹⁸ See AT&T Petition, p. 3.

¹⁹ See *In the Matter of Tariff Filing Requirements for Nondominant Common Carriers*, Memorandum Opinion and Order, CC Docket No. 93-36, para. 25 (rel. Aug. 18, 1993).

III. THE COMMISSION SHOULD REQUIRE EXECUTING CARRIERS TO LIFT FREEZES AND PROCESS CARRIER CHANGE REQUESTS IN THE SAME THREE-WAY CALL.

WorldCom supports AT&T's request for reconsideration of the Commission decision not to require executing carriers to lift freezes and process carrier change requests by the customer in the same three-way call. Freeze protection is intended to protect consumers from fraud and unauthorized conversions, while ensuring they have a "... simple and reliable way of lifting preferred carrier freezes, and thus making a carrier change."²⁰ A process that requires customers to request a freeze be lifted for the purpose of changing carriers, but that does not allow them to make the change at the same time creates an unnecessary burden. Moreover, it denies the customer the protection of the freeze for an indeterminate amount of time. Executing carriers administering a preferred carrier freeze should be required to lift the freeze, process the change, and re-established the freeze in the same transaction if requested by the customer. Performance of these tasks in one transaction ensures that the process is simple and provides consumers continued protection.

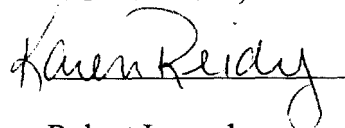
²⁰ See *Section 258 Order*, para. 128.

CONCLUSION

For foregoing reasons, the Commission should clarify and modify its rules as discussed above.

Respectfully submitted,

WORLDCOM, Inc.

A handwritten signature in cursive script, appearing to read "Karen Reidy", written over a horizontal line.

Robert Lopardo
Karen Reidy
1133 19th Street, NW
Washington, DC 20036
(202) 736-6489

Its Attorneys

April 30, 2001

CERTIFICATE OF SERVICE

I, Vivian Lee, do hereby certify that copies of the foregoing Comments on AT&T's Petition for Reconsideration were sent, on this 30th day of April, 2001, via first-class mail, postage pre-paid, to the following:

Dorothy Attwood**
Common Carrier Bureau
Federal Communication Commission
445 12th Street, SW
Washington, DC 20554

Michele Walters
Common Carrier Bureau
Federal Communication Commission
445 12th Street, SW
Washington, DC 20554

Sheryl Todd*
Common Carrier Bureau
Federal Communication Commission
445 12th Street, SW
Washington, DC 20554

ITS**
1231 20th Street, NW
Washington, DC 20037

Grant Wood
State of Arizona
1275 West Washington
Phoenix, AZ 85007

Bruce M. Botelho
State of Alaska
P.O. Box 110300
Juneau, AK 99811

Donald E. Lungren
State of California
1515 K Street, Suite 511
P.O. Box 944255
Sacramento, CA 94244

M. Jane Brady
State of Delaware
820 N. French Street
Wilmington, DE 19801

Cynthia B. Miller
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Robert A. Butterworth
State of Florida
The Capitol
Tallahassee, FL 32399

Al Lance
State of Idaho
210 Statehouse
Boise, ID 83720

James E. Ryan
State of Illinois
500 S. Second Street
Springfield, IL 62796

Illinois Commerce Commission
160 N. LaSalle Street, Suite C-800
Chicago, IL 60601

Jeffrey A. Modisett
State of Indiana
219 State House
Indianapolis, IN 46204

Thomas J. Miller
State of Iowa
Hoover Building, 2nd Floor
Des Moines, IA 50319

Carla J. Stovall
State of Kansas
Kansas Judicial Center -- 2nd Floor
Topeka, KA 66612

J. Joseph Curan, Jr.
State of Maryland
200 St. Paul Place
Baltimore, MD 21202

Bryan G. Moorhouse
Susan Stevens Miller
Maryland Public Service Commission
6 Saint Paul Street
Baltimore, MD 21202

Frank J. Kelley
State of Michigan
Law Building
P.O. Box 30212
Lansing, MI 48909

Humbert H. Humphrey, III
State of Minnesota
102 State Capitol
St. Paul, MN 55155

Dana K. Joyce
Lera L. Shernwell
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Robin McHugh
Montana Public Service Commission
P.O. Box 202601
Helena, MT 59620

Frankie Sue Del Pappa
State of Nevada
Capitol Complex
Carson City, NV 89710

Tom Udall
State of New Mexico
P.O. Drawer 1508
Santa Fe, NM 87504

Dennis C. Vacco
State Capitol of New York
Albany, NY 12224

Cheryl L. Callahan
Eliane H. Bartley
NY State Public Service Commission
Three Empire State Plaza
Albany, NY 12223

Michale F. Easley
State of North Carolina
P.O. Box 6239
Raleigh, NC 27602

Robert P. Gruber
Antoinette R. Wike
Public Staff
North Carolina Utilities Commission
P.O. Box 29520
Raleigh, NC 27626

Betty D. Montgomery
State of Ohio
30 East Broad Street, 17th Floor
Columbus, OH 43266

Robert S. Tongren
Evelyn R. Robinson
Ohio Consumers' Counsel
Columbus, OH 43266

Betty Montgomery
Duane Luckey
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43266

Lenora Burdine
Oklahoma Corporation Commission
P.O. Box 52000-2000
Oklahoma City, OK 73152

Irwin A. Popovsky
Philip F. McClland
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Jeffrey B. Pine
State of Rhode Island
72 Pine Street
Providence, RI 02903

John Knox Walkup
State of Tennessee
500 Charlotte Avenue
Nashville, TN 37243

Lynn Greer
Sara Kyle
Melvin Maline
Tennessee Regulatory Authority
450 James Robertson Pkway
Nashville, TN 37218

Suzie Ray McClellan
Kristen Doyle
Texas Office of Public Utility Counsel
1701 N. Congress Avenue, Suite 9-180
P.O. Box 12397
Austin, TX 78711

Pat Wood III
Judy Walsh
Public Utility Commission of Texas
1701 N. Congress Ave, 7th Floor
Austin, TX 78711

William H. Sorrell
State of Vermont
109 State Street
Montpelier, VT 05609

Peter M. Bluhm
Vermont Public Service Board
Drawer 20
Montpelier, VT 05620

E.C. Addison
Virginia State Corporation Commission
Division of Communications
P.O. Box 197
Richmond, VA 23218

Christine O. Gregoine
State of Washington
125 Washington Street, SE
P.O. Box 401011
Olympia, WA 98504

Darrell V. McGraw, Jr
State of West Virginia
Room 26 - East Wing
State Capitol
Charleston, WV 25305

James E. Doyle
State of Wisconsin
P.O. Box 7857
Madison, WI 53707

Winston Bryant
State of Arkansas
200 Tower Building
323 Center Street
Little Rock, AR 72201

Perth Arth, Jr.
Lionel B. Wilon
Mary Mack Adu
State of CA Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

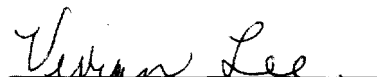
Richard Blumenthal
Consumer Protection Commission
Nat'l. Assn. Of Attorneys General
55 Elm Street - 7th Floor
Hartford, CT 06106

Elizabeth A. Noel
Sandra Mattavous-Frey
Office of the People's Counsel
1133 15th Street, NW, Suite 500
Washington, DC 20005

Irwin A. Popowsky
Philip F. McClelland
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Peter H. Jacoby
Mark Rosenblum
AT&T Corporation
Room 1134L2
295 North Maple Avenue
Basking Ridge, NJ 07920

*HAND DELIVERED


Vivian Lee